Powers of officers appointed.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is [1][appointed] to an equal or higher office of the same nature, within a like local area under the same [2][[3][State] Government], he shall, unless the [2][[3][State] Government] otherwise directs, or has otherwise directed, [4]* * exercise the same powers in the local area [5][in which] he is so [1][appointed].

Powers may be cancelled.

41. (*1*) The State Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it.

41. (*1*) The [2][[3][State] Government] may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it:

[6][*Provided that in the case of Judicial Magistrates the withdrawal of such powers shall be made in consultation with the High Court.*]

(*2*) Any powers conferred by the District Magistrate may be withdrawn by the District Magistrate.

[7][(*3*) Any powers conferred by the Sessions Judge may be withdrawn by the Sessions Judge with the approval of the High Court.]

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

Public when to assist Magistrate and police.

42. Every person is bound to assist a Magistrate or police officer reasonably demanding his aid, whether within or without the presidency-towns,—

(*a*) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorized to arrest;

(*b*) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

Aid to person other than police-officer, executing warrant.

43. When a warrant is directed to a person other than a police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences.

44. (*1*) Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit any offence punishable under any of the following sections of the Indian Penal Code (namely) 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460 shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention.

XLV of 1860.

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[1] Substituted by Act 18 of 1923, s. 8, for "transferred".
[2] Substituted by the A. O. 1937 for "L. G.".
[3] Substituted by the A. O. 1950 for "Provincial".
[4] The words "continue to" rep. by Act 18 of 1923, s. 8.
[5] Substituted by s. 8, *ibid*, for "to which".
[6] Added by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[7] Inserted by Bom. 71 of 1954, s. 3.

(*2*) For the purposes of this section the term "offence" includes any act committed at any place out of [1][India] which would constitute an offence if committed in [1][India].

Village-headmen, accountants, landholders and others bound to report certain matters.

45. (*1*) Every village-headman, village-accountant, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier [2][in charge of the management of that land], [3][and every member of a village panchayat, other than a judicial panchayat (where such panchayat, by whatever name called, is constituted under any law for the time being in force)] and every officer employed in the collection of revenue or rent of land on the part of [4][the [5][Government]]] or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station whichever is the nearer, any information which he may [6][possess] respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;

(*b*) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects to be a thief, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under sections 143, 144, 145, 147 or 148 of the Indian Penal Code; XLV of 1860.

(*d*) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances [2][or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person];

(*e*) the commission of, or intention to commit, at any place out of [1][India] near such village any act which, if committed in [1][India], would be an offence punishable under any of the following sections of the Indian Penal Code, namely, [2][231, 232, 233, 234, 235, 236, 237, 238,] 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, [7][460, 489A, 489B, 489C and 489D]; XLV of 1860.

(*f*) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate by general or special order made with the previous sanction of the [8][[9][State] Government], has directed him to communicate information.

(*2*) In this section—

(*i*) "village" includes village-lands; and

(*ii*) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued [10][by the Central Government outside India], in respect of any act which if committed in [1][India],

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[1] The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act I of 1951 to read as above.

[2] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 9.

[3] Inserted by Act 26 of 1955, s. 11.

[4] Substituted by the A. O., 1937 for "Govt.".

[5] Substituted by the A. O., 1950 for "Crown".

[6] Substituted by Act 18 of 1923, s. 9, for "obtain".

[7] Substituted, *ibid*, for "and 460".

[8] Substituted by the A. O. 1937 for "L. G."

[9] Substituted by the A. O. 1950 for "Provincial".

[10] Substituted by Act I of 1951, s. 7, for "by the Central Government or the Crown Representative in any part of India".

would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460. XLV of 1860.

(*3*) Subject to rules in this behalf to be made by the [1][[2][State] Government], the District Magistrate [3][or Sub-divisional Magistrate] may from time to time appoint one or more persons [3][with his or their consent] [4][to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law.] Appointment of village-headmen by District Magistrate or Sub-divisional Magistrate in certain cases for purposes of this section.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

46. (*1*) In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action. Arrest how made.

(*2*) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest. Resisting endeavour to arrest.

(*3*) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with [5][imprisonment] for life.

47. If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, [6][any person residing] in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein. Search of place entered by person sought to be arrested.

48. If ingress to such place cannot be obtained under section 47 it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance: Procedure where ingress not obtainable.

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public such person or police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it. Breaking open Zanana.

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[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 9.
[4] Substituted, *ibid*, for "to be village-headmen for the purposes of this section in any village for which there is no, such headman appointed under any other law".
[5] Substituted by Act 26 of 1955, s. 12, for "transportation".
[6] Substituted, *ibid*, s. 13, for "the person residing".